

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

----- X  
BABY DOE, A CITIZEN OF AFGHANISTAN :  
CURRENTLY RESIDING IN NORTH : CIVIL ACTION NO. 3:22-CV-49  
CAROLINA, BY AND THROUGH NEXT :  
FRIENDS, JOHN AND JANE DOE; AND JOHN :  
AND JANE DOE, CITIZENS OF AFGHANISTAN:  
AND LEGAL GUARDIANS OF BABY DOE, :  
:  
Plaintiffs, :  
:  
v. :  
:  
JOSHUA MAST, STEPHANIE MAST, RICHARD :  
MAST, KIMBERLEY MOTLEY, AND AHMAD :  
OSMANI, :  
:  
Defendants, :  
:  
and :  
:  
UNITED STATES SECRETARY OF STATE :  
ANTONY BLINKEN AND UNITED STATES :  
SECRETARY OF DEFENSE GENERAL :  
LLOYD AUSTIN, :  
:  
Nominal Defendants. :  
----- X

**PLAINTIFFS' MOTION, AND MEMORANDUM OF LAW IN SUPPORT OF MOTION,  
TO SEAL EXHIBITS A AND B TO THEIR REPLY MEMORANDUM IN SUPPORT OF  
PLAINTIFF'S MOTION TO SHOW CAUSE WHY DEFENDANTS JOSHUA AND  
STEPHANIE MAST SHOULD NOT BE HELD IN CONTEMPT**

Plaintiffs, by counsel, respectfully move for leave to file under seal Exhibits A and B to their Reply Memorandum in Support of their Motion to Show Cause Why Defendants Joshua and

Stephanie Mast Should Not Be Held in Contempt, pursuant to Local Civil Rule 9 and this Court's Protective Order (ECF No. 26). In support thereof, Plaintiffs state as follows:

Exhibit A and B are a transcripts and exhibits that identify Plaintiffs. Additionally, they remain subject to a sealing order issued by the Circuit Court of the County of Fluvanna ("Sealed Circuit Court Proceeding"). *See* ECF No. 73, Exh. B. That Order allows the parties in the Sealed Circuit Court Proceeding to file in this matter filings, transcripts, documents and discovery from the Sealed Circuit Court Proceeding, so long as such documents are filed under seal in this matter. While the circuit court recently verbally ordered that the seal on that proceeding will be lifted, it asked the parties to submit proposed redactions to the filings before it will unseal the record. Thus, the items included as Exhibit A and B remain under seal in the circuit court.

Under the common law right of access to judicial records, documents should be sealed when a party's interest in keeping the information contained therein confidential outweighs the presumed right of public access. *See, e.g. Stone v. Univ. of Maryland Med. Sys. Corp.*, 855 F.2d 178 (4th Cir. 1988); *Ashcroft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). "Courts have recognized that an interest in protecting the physical and psychological well-being of individuals related to the litigation, including family members and particularly minors, may justify restricting access" to court documents. *United States v. Harris*, 890 F.3d 480, 492 (4<sup>th</sup> Cir. 2018); *see also United States v. Doe*, 962 F.3d 139, 147 (4<sup>th</sup> Cir. 2020).

In this instance, the judge in the Sealed Circuit Court Proceeding ordered that all filings made in that proceeding be under seal and that, if they are filed in this matter, they must be filed under seal. In addition, the threats to the safety of the Plaintiffs and other innocent non-parties are very real, and have been recognized by this Court's Protective Order (ECF No. 26).

Plaintiffs have publicly filed their Reply Memorandum in Support of their Motion to Show Cause Why Defendants Joshua and Stephanie Mast Should Not Be Held In Contempt. Thus, the public is not wholly deprived of an understanding of the general underlying factual basis for the request. The relief Plaintiffs seek in this motion is narrowly tailored to the circumstances, and aims to seal only what is absolutely necessary to safeguard the safety of persons related to the litigation. Defendants are not prejudiced as they are aware of Plaintiffs' identities and are parties to and/or aware of the Sealed Circuit Court Proceeding.

Accordingly, Plaintiffs request that Exhibits A and B to their Reply Memorandum in Support of their Motion to Show Cause Why Defendants Joshua and Stephanie Mast Should Not Be Held In Contempt be filed under seal, as the risks attendant to public disclosure of these documents is not likely to dissipate over time. Plaintiffs will promptly advise this Court if the circuit court lifts the seal on any item included in Exhibits A and B.

A proposed Order is attached as Exhibit 1 to this Motion.

Dated: February 3, 2023

Respectfully submitted,

*/s/ Maya Eckstein*

\_\_\_\_\_  
Maya M. Eckstein (VSB No. 41413)  
Lewis F. Powell III (VSB No. 18266)  
HUNTON ANDREWS KURTH LLP  
951 E Byrd St  
Richmond, VA 23219  
Telephone: (804) 788-8200  
Fax: (804) 788-8218  
Email: [meckstein@HuntonAK.com](mailto:meckstein@HuntonAK.com)  
Email: [lpowell@HuntonAK.com](mailto:lpowell@HuntonAK.com)

Jeremy C. King (*admitted pro hac vice*)  
HUNTON ANDREWS KURTH LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 309-1000  
Fax: (212) 309-1100  
Email: jking@HuntonAK.com

Sehla Ashai (*admitted pro hac vice*)  
ELBIALLY LAW, PLLC  
704 East 15th Street  
Suite 204  
Plano, TX 75074  
Telephone: (312) 659-0154  
Email: ashai@elbiallylaw.com

Blair Connelly (*admitted pro hac vice*)  
Zachary L. Rowen (*admitted pro hac vice*)  
LATHAM & WATKINS LLP  
1271 Avenue of the Americas  
New York, New York 10020  
Telephone: (212) 906-1200  
Facsimile: (212) 751-4864  
Email: Blair.Connelly@lw.com  
Email: Zachary.Rowen@lw.com

Ehson Kashfipour (*admitted pro hac vice*)  
Damon R. Porter (*admitted pro hac vice*)  
LATHAM & WATKINS LLP  
555 Eleventh Street, N.W. Suite 1000  
Washington, D.C. 20004  
Telephone: (202) 637-2200  
Facsimile: (202) 637-2201  
Email: Ehson.Kashfipour@lw.com  
Email: Damon.Porter@lw.com

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3<sup>rd</sup> day of February, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

By: /s/ Maya M. Eckstein  
Maya M. Eckstein (VSB # 41413)  
Hunton Andrews Kurth LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074  
Telephone: (804) 788-8200  
Facsimile: (804) 788-8218  
meckstein@HuntonAK.com

*Counsel for Plaintiffs*